

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Joseph Paul Young,

Defendant.

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**MEMORANDUM OPINION**

**AND ORDER**

Criminal No. 09-183 ADM/FLN

Allen A. Slaughter, Jr., Esq., and Andrew S. Dunne, Esq., Assistant United States Attorneys, Minneapolis, MN, for Plaintiff.

Manvir K. Atwal, Esq., Assistant Federal Defender; Ryan P. Garry, Esq., Ryan Garry, PLC, Minneapolis, MN, on behalf of Defendant.

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**I. INTRODUCTION**

This matter is before the undersigned United States District Judge for a ruling on Defendant Joseph Paul Young’s (“Defendant”) Objections [Docket No. 39] to Magistrate Judge Franklin L. Noel’s May 23, 2011 Order and Report and Recommendation [Docket No. 38] (“Order and R&R” or “R&R”). Defendant objects to the portion of the R&R which recommends denying Defendant’s Motion to Suppress Eyewitness Identifications [Docket No. 14] and Defendant’s Motion to Suppress Evidence Obtained as a Result of Search and Seizure [Docket No. 19]. For the reasons set forth below, the Objections are overruled and the R&R is adopted.

**II. BACKGROUND**

Defendant is charged with four counts of bank robbery, in violation of 18 U.S.C. § 2113(a). The facts underlying these charges are comprehensively set forth in Judge Noel’s Order and R&R and are incorporated by reference for purpose of the present Objections.

### **III. DISCUSSION**

#### **A. Standard of Review**

“A district judge may refer to a magistrate judge for recommendation a defendant’s motion to dismiss or quash an indictment or information, a motion to suppress evidence, or any matter that may dispose of a charge or defense.” Fed. R. Crim. P. 59(b)(1). “The district judge must consider de novo any objection to the magistrate judge’s recommendation.” Fed. R. Crim. P. 59(b)(3).

#### **B. Defendant’s Objections**

In his motion to suppress before Judge Noel, Defendant argued: (1) the search of his Chevrolet Silverado, the search of his sister’s residence, and the search incident to his arrest violated the Fourth Amendment; (2) his Due Process rights were violated because the identification procedures used by law enforcement were impermissibly suggestive; and (3) probable cause did not exist to support the issuance of the search warrant for Defendant’s DNA sample. As a result, Defendant avers, the evidence was unconstitutionally secured and therefore, must be suppressed. Judge Noel thoroughly addressed and rejected each of Defendant’s arguments and ultimately concluded that the evidence obtained was admissible.

Defendant fails to make any arguments to this Court in his Objections that Judge Noel has not already considered. After a de novo review of Defendant’s Objections and the entire record of this case, the Court agrees with Judge Noel’s recommendations and declines to duplicate the analysis here.

#### IV. CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS  
HEREBY ORDERED** that:

1. Judge Noel's R&R [Docket No. 38] is **ADOPTED**;
2. Defendant's Objections [Docket No. 39] are **OVERRULED**;
3. Defendant's Pretrial Motion to Suppress Eyewitness Identifications [Docket No. 14] is **DENIED**; and
4. Defendant's Motion to Suppress Evidence Obtained as a Result of Search and Seizure [Docket No. 19] is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery  
ANN D. MONTGOMERY  
U.S. DISTRICT JUDGE

Dated: June 9, 2011.